IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICGTION

INCOME TAX REFERENCE NO. 417 of 1995

The Commissioner of Income Tax ... Applicant.

vs.

M/s. London Star Diamond Pvt. Ltd..... Respondent

Mr. Parag Vyas i/b. H. D. Rathod for Applicant.
Mr. B. V. Jhaveri for Respondent

CORAM: V. C. DAGA AND A. S. AGUIAR JJ.

Date: 10th August, 2005.

P. C. :

1. By this reference arising out of I.T.A. No. 1337& 1338/Bom/1986, for Assessment Years 1981-82 and 1982-83, under section 256(1) of the Income-tax Act the Tribunal has referred the following question of law for the opinion of this court at the instance of the Revenue:

> (1) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the order of the C.I.T. (A) holding that the assessee was an industrial company and not a trading company and thus directing to tax income of the assessee company treating the same as industrial company.

2. Both counsel appearing for the rival parties agree that the question referred to above, stands covered by the judgment of this court in the case of **Commissioner of Income Tax vs. London Star Diamond Co. (I) Ltd., reported in [1995] 213 ITR 517.** In this view of the mater the question is answered in the affirmative i.e., in favour of the assessee, against the revenue.

Reference is accordingly disposed of with no order as to costs.

(V. C. DAGA J.)

(A. S. AGUIAR J.)

-x-